

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID FLYNN,
Plaintiff

v.

MICHAEL J. WELCH, JIM FORREST, and
STEPHEN TRAISTER,
Defendants

Civil Action No. 1:21-cv-10256-IT

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and L.R. 56.1, Defendants Michael J. Welch, Jim Forrest, and Stephen Traister (together, “Defendants”) submit this Memorandum of Law in support of their Motion for Summary Judgment. As set forth below, Defendants are entitled to judgment as a matter of law on all counts of Plaintiff’s Complaint. In addition to this Motion, Defendants submit A Memorandum of Law, Defendants’ Rule 56.1 Statement of Undisputed Facts and the Affidavit of Brian E. Lewis, all filed contemporaneously.

Plaintiff David Flynn, the former head football coach at Dedham High School, has asserted two claims under 42 U.S.C. §1983, alleging (1) retaliation for protected petitioning of the government and (2) retaliation for protected speech. Specifically, Plaintiff alleges that Defendants’ January 2021 decision to not reappoint him as the head football coach violated his First Amendment rights, which he exercised in publicly criticizing certain actions of the Dedham Public Schools and Defendant Superintendent Michael Welch in October 2020.

Defendants’ decision to not reappoint Plaintiff to the coaching position did not violate his First Amendment rights. Rather, the undisputed facts demonstrate that Plaintiff, as a public employee of Dedham Public Schools, does not have an unlimited right to challenge and criticize his employer. Defendants had the right to not reappoint Plaintiff because his public, derogatory comments about Superintendent Michael Welch, as well as his repeated, public xenophobic statements in opposition

to the promotion of diversity and equity in the Dedham Public Schools (essential elements of the Dedham Public Schools' curriculum, mission, goals, and values). These statements jeopardized the efficient operations of the Dedham school system. Moreover, even if Defendants' decision infringed on his constitutional right, Defendants' actions are protected by the doctrine of "qualified immunity," as there is no evidence that Defendants blatantly violated Plaintiff's known constitutional rights.

For these reasons, as more fully described in Defendants' Memorandum of Law, this Court should grant Defendants' Motion for Summary Judgment and dismiss Plaintiff's claims.

DEFENDANTS REQUEST ORAL ARGUMENT

Respectfully submitted,

MICHAEL J. WELCH, JIM FORREST, and
STEPHEN TRAISTER,

By their attorney,

/s/ Brian E. Lewis
Brian E. Lewis, Esq. (BBO #643717)
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Date: January 28, 2022

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on January 28, 2022.

/s/ Brian E. Lewis
Jackson Lewis, P.C.

Dated: January 28, 2022